

Shivgan

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO.3027 OF 2025

Umer Abdul Jabbar Gopalani

...Petitioner

Versus

State of Maharashtra & Ors.

...Respondents

Mr Burhan Bukhari, *Husen Shaikh, Rumman Shaikh & Mr. Bilal Shaikh, for the Petitioner.*

Mr Hiten Venegaonkar, *Public Prosecutor, Mr. A.R.Patil and Ms. Mahalaxmi Ganapathy, APPs for the Respondents-State.*

Mr N. Ugale, *PI attached to Gamdevi Police Station, Mumbai present.*

Mr Vedang H. Joshi, *Assistant Archaeologist, DOAM present.*

CORAM Dr. Neela Gokhale, J.
 Manjusha Deshpande, J.
 (Vacation Court)

DATED: 6th June 2025

PC:-

1. Leave to amend to add Secretary of Social Justice Cultural Affairs and Special Assistance Department of the State of Maharashtra and Deputy Municipal Commissioner Zone-I as Respondents No.4 and 5 is granted. The amendment

is to be carried out forthwith. Mr. Venegaonkar, Public Prosecutor, waives notice for the Respondents No.1 to 3.

2. Mr. Venegaonkar, learned Public Prosecutor, has placed on record an order dated 22nd March 2006 passed by this Court (*Coram: A.M.Khanwilkar, J.*) in Contempt Petition No.233 of 2005. Paragraphs 7,8 and 9 of the said order read as thus;

7. The learned AGP appearing for the State Government submits that permission in relation to the user of August Kranti Maidan is presently granted by the Social Justice Cultural Affairs and Special Assistance Department, as per the Government Business Rules. If it is so, the Secretary of the said department will be responsible to accord all future permissions to be granted by the State Government for the user of August Kranti Maidan. It is made clear that in future any permission for user of August Kranti Maidan consistent with the mandate of Section 37A, will be valid only if it is given under the signature of Secretary of Social Justice Cultural Affairs and Special Assistance Department, State of Maharashtra.

8. In so far as Mumbai Municipal Corporation which is the Planning Authority, in terms of section 37A is also competent to grant permission for the specified user. To obviate any possibility of deviation in future, it was felt necessary to identify the officer of the Corporation who can be made responsible for future permissions to be granted for the user of August Kranti Maidan for specified purposes in

Section 37A of the Act. Mr. Sakhare for the Corporation states that such permission is granted by the Deputy Municipal Commissioner, Zone-I, within whose area August Kranti Maidan is situated. In the circumstances, it is directed that all future permissions regarding user of August Kranti Maidan to be granted by the Mumbai Municipal Corporation shall be under the signature of Deputy Municipal Commissioner Zone-I.

9. It is made clear that the above said two authorities who will be responsible for grant of all future permissions for user of August Kranti Maidan will be guided by the directions given by this court in Writ Petition No.2323 of 1984 dated 4th April, 1986 read with Section 37A of the Maharashtra Regional Town Planning Act, 1966. To wit, the specified use have been mentioned in section 37A of the Act as occasions of Independence Day, Republic Day, Maharashtra Day and similar National events and Jayanties and Punnyatithies of National leaders and religious functions. Indeed, the expression "religious function" has not been defined in the Act. The authorities shall therefore, act with circumspection, so that no controversy is created in future regarding the grant of any permission."

3. In view of the aforesaid order, the Competent Authorities to grant permission regarding user of August Kranti Maidan are the two Authorities namely, newly added Respondent No.4- Secretary of Social Justice Cultural Affairs and Special Assistance Department of the State of

Maharashtra and Respondent No.5-Deputy Municipal Commissioner Zone-1.

4. In this view of the matter, learned counsel appearing for the Petitioner submits that the Petitioner will make an application seeking permission for the necessary user of August Kranti Maidan to the Competent Authorities. Due to paucity of time, the Competent Authorities are requested to decide the application expeditiously, if possible today.

5. The Petition is thus, disposed off with liberty to the Petitioner to take recourse to an appropriate remedy, if so advised, in case, he is aggrieved by the orders passed by the Competent Authorities.

6. All parties to act on an authenticated copy of this order.

(Manjusha Deshpande, J.)

(Dr. Neela Gokhale, J)

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